



1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**STATEMENT OF FACTS**

4. Defendant is engaged in the business of selling food and drink to the general public.

5. Plaintiff visited Defendant's restaurant on 11 January 2023 and paid his bill, which totalled \$24.00.

6. Plaintiff reviewed his receipt and was surprised to find a 6% charge that was secretly added to his bill. This charge was called "SF Mandate".

7. Defendant did not disclose this charge to Plaintiff at any point prior to Plaintiff ordering food. Defendant does not disclose this charge on its menu.

8. Even *if* Defendant disclosed this charge to Plaintiff and other consumers prior to a purchase being made, Defendant is still misrepresenting the nature of the charge.

9. The name of this charge, "SF Mandate", led Plaintiff and would lead any reasonable person to believe that it was a governmental requirement for employers to charge this fee onto customer bills. Defendant uses the letters "SF" to represent the City and/or County of San Francisco, and uses the word "Mandate" to convey the plain meaning of the word: "an authoritative command". (See: Merriam-Webster dictionary).

10. This charge is *not* imposed by any government agency, and is a charge that Defendant adds to customer bills for the sole purpose of increasing its gross profit margin.

11. Plaintiff was deceived into making a purchase with Defendant, because he expected to pay the prices displayed on the menu that was presented to him and his guest, and did not expect any misleading and/or hidden charges to be added to his final bill.

12. Plaintiff would not have purchased items from Defendant if he had been aware of the hidden 5% "SF Employer Mandate" charge, or if he was aware that Defendant was attempting to pass off hidden merchant charges as governmentally mandated.

**FIRST CAUSE OF ACTION**

**VIOLATION OF THE UNFAIR COMPETITION LAW**

**(CALIFORNIA BUSINESS AND PROFESSIONS CODE §§17200 ET SEQ.)**

VERIFIED COMPLAINT

1 13. Plaintiff incorporates, by reference, all other allegations and facts herein stated.

2 14. California Business and Professions Code §§17200 et seq. prohibits any “unlawful,  
3 unfair, or fraudulent business act or practice”.

4 15. Defendant has engaged prohibited acts by:

- 5 a. Failing to disclose a mandatory merchant-imposed surcharge affecting the  
6 effective prices of its products.
- 7 b. Advertising certain prices with the intent not to sell those items at the prices so  
8 advertised.
- 9 c. Deceptively inducing customer purchases by displaying a menu that does not  
10 include nor disclose all mandatory merchant-imposed surcharges, causing any  
11 reasonable member of the public to assume that Defendant’s products were  
12 cheaper than they actually were.
- 13 d. Harming competitors by causing any reasonable member of the public to believe  
14 Defendant’s prices were cheaper than they actually were.
- 15 e. Falsely advertising its merchant-imposed surcharge as a “SF Mandate”, causing  
16 any reasonable member of the public to believe the government of San Francisco  
17 mandates the Defendant to add this surcharge to customer bills, when in fact, no  
18 such mandate exists.

19 16. Plaintiff was damaged by Defendant’s unlawful, unfair, and fraudulent business acts or  
20 practices and is entitled by law to relief.

21  
22 **SECOND CAUSE OF ACTION**

23 **VIOLATION OF FALSE ADVERTISING LAW**

24 **(CALIFORNIA BUSINESS AND PROFESSIONS CODE §§17500 ET SEQ.)**

25 17. Plaintiff incorporates, by reference, all other allegations and facts herein stated.

26 18. California Business and Professions Code §§17500 et seq. prohibits anyone from falsely  
27 advertising their products.

28 19. Defendant has engaged in prohibited acts by:

VERIFIED COMPLAINT

- 1 a. Failing to disclose a mandatory merchant-imposed surcharge affecting the  
2 effective prices of its products.
- 3 b. Advertising certain prices with the intent not to sell those items at the prices so  
4 advertised.
- 5 c. Deceptively inducing customer purchases by displaying a menu that does not  
6 include nor disclose all mandatory merchant-imposed surcharges, causing any  
7 reasonable member of the public to assume that Defendant's products were  
8 cheaper than they actually were.
- 9 d. Harming competitors by causing any reasonable member of the public to believe  
10 Defendant's prices were cheaper than they actually were.
- 11 e. Falsely advertising its merchant-imposed surcharge as a "SF Mandate", causing  
12 any reasonable member of the public to believe the government of San Francisco  
13 mandates the Defendant to add this surcharge to customer bills, when in fact, no  
14 such mandate exists.

15 20. Plaintiff was damaged by Defendant's unlawful, unfair, and fraudulent business acts or  
16 practices and is entitled by law to relief.

17

18 **THIRD CAUSE OF ACTION**

19 **VIOLATION OF CONSUMER LEGAL REMEDIES ACT**

20 **(CALIFORNIA CIVIL CODE §§1750 ET SEQ.)**

21 21. Plaintiff incorporates, by reference, all other allegations and facts herein stated.

22 22. The Consumer Legal Remedies Act ("CLRA") prohibits certain "unfair methods of  
23 competition and unfair or deceptive acts". Cal. Civ. Code §1770(a).

24 23. Defendant has violated the CLRA.

25 24. By advertising goods and services with intent not to sell them as advertised, Defendant  
26 has violated the CLRA. Cal. Civ. Code §1770(a)(9).

27 25. By representing that the "SF Mandate" charge was a governmental mandate, a statement  
28 that reasonably confers an obligation on the Defendant to remit the proceeds of this fee to a

VERIFIED COMPLAINT

1 governmental authority for the benefit of the public that is does not have (as the “SF Mandate”  
2 fee was not actually a San Francisco mandate), Defendant has violated the CLRA. Cal. Civ.  
3 Code §1770(a)(14).

4 26. Any consumer who suffers any damage as a result of the use by any person of any  
5 practice declared to be unlawful by §1770 may bring an action against that person to recover or  
6 obtain any of the following: “Actual damages”, “An order enjoining the methods, acts, or  
7 practices”, “Punitive damages”, and “Any other relief that the court deems proper”. Cal. Civ.  
8 Code §1780(a).

#### 10 **REQUEST FOR RELIEF**

11 27. Plaintiff demands actual damages in an amount according to proof.

12 28. Plaintiff demands punitive damages.

13 29. Plaintiff demands injunctive relief enjoining the Defendant from continuing to act in  
14 any way contrary to law, including (1) from continuing to charge any merchant-imposed fee or  
15 surcharge that is not first properly disclosed to the customer, and (2) from representing such a  
16 merchant-imposed fee or surcharge as a “mandate” or using names of governmental entities  
17 like “SF” to mislead consumers.

18 30. Plaintiff demands an order mandating that Defendant refund all customers who were  
19 deceptively induced into paying its hidden “SF Mandate” fee.

20 31. Plaintiff demands the costs of suit, including the filing fee and fees for service of  
21 process.

22 32. Lastly, any other relief that this Court in its discretion deems just and appropriate.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Date: 22 May 2024

Signed: 

Print Name: ALEXANDER XUE

VERIFIED COMPLAINT

PAGE NO. 6 OF 7

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

34. I have personal knowledge of all allegations set out in the foregoing Verified Complaint, and if called on to testify I would testify as to the matters stated herein.

35. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this *Verified Complaint* concerning myself, my activities, and my intentions are true and correct to the best of my knowledge.

Signed: \_\_\_\_\_

Print Name: ALEXANDER XUE